

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1813

Introduced by Senator Runner

February 24, 2006

An act *to amend Section 11571.1 of the Health and Safety Code, relating to ~~economic development~~ controlled substances.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1813, as amended, Runner. ~~Enterprise zones: fee collection. Civil actions: unlawful detainer: controlled substances.~~

~~The Enterprise Zone Act authorizes the Department of Housing and Community Development to assess and collect fees for its costs in administering the provisions of the act.~~

~~This bill would declare the intent of the Legislature to enact legislation to provide for an expedited process for the collection of those fees.~~

Existing law authorizes certain courts having jurisdiction over specified cities to hear an unlawful detainer action brought by a city attorney or city prosecutor on behalf of the people against any person who remains in possession of leased real property after the lease is terminated because the lessor was using the real property for purposes of selling controlled substances.

This bill would include the cities of Lancaster, Palmdale, and Victorville in the list of specified cities.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 11571.1 of the Health and Safety Code*
2 *is amended to read:*

3 11571.1. (a) To effectuate the purposes of this article, the
4 city prosecutor or city attorney may file, in the name of the
5 people, an action for unlawful detainer against any person who is
6 in violation of the nuisance or illegal purpose provisions of
7 subdivision 4 of Section 1161 of the Code of Civil Procedure,
8 with respect to a controlled substance purpose. In filing this
9 action, which shall be based upon an arrest report or on another
10 action or report by a regulatory or law enforcement agency, the
11 city prosecutor or city attorney shall utilize the procedures set
12 forth in Chapter 4 (commencing with Section 1159) of Title 3 of
13 Part 3 of the Code of Civil Procedure, except that in cases filed
14 under this section, the following also shall apply:

15 (1) (A) Prior to filing an action pursuant to this section, the
16 city prosecutor or city attorney shall give 30 calendar days'
17 written notice to the owner, requiring the owner to file an action
18 for the removal of the person who is in violation of the nuisance
19 or illegal purpose provisions of subdivision 4 of Section 1161 of
20 the Code of Civil Procedure with respect to a controlled
21 substance purpose.

22 (B) This notice shall include sufficient documentation
23 establishing a violation of the nuisance or illegal purpose
24 provisions of subdivision 4 of Section 1161 of the Code of Civil
25 Procedure and shall be served upon the owner and the tenant in
26 accordance with subdivision (e) of this section.

27 (C) The notice to the tenant shall also include on the bottom of
28 its front page, in at least 14-point bold type, the following:

29 “Notice to Tenant: This notice is not a notice of eviction.
30 However, you should know that an eviction action may soon be
31 filed in court against you for suspected drug activity, as described
32 above. You should call (insert name and telephone number of the
33 city attorney or prosecutor pursuing the action) or legal aid to
34 stop the eviction action if any of the following is applicable:

35 (i) You are not the person named in this notice.

36 (ii) The person named in the notice does not live with you.

37 (iii) The person named in the notice has permanently moved.

38 (iv) You do not know the person named in the notice.

1 (v) You have any other legal defense or legal reason to stop
2 the eviction action.

3 A list of legal assistance providers is attached to this notice.
4 Some provide free legal help if you are eligible.”

5 (D) The owner shall, within 30 calendar days of the mailing of
6 the written notice, either provide the city prosecutor or city
7 attorney with all relevant information pertaining to the unlawful
8 detainer case, or provide a written explanation setting forth any
9 safety-related reasons for noncompliance, and an assignment to
10 the city prosecutor or city attorney of the right to bring an
11 unlawful detainer action against the tenant.

12 (E) The assignment shall be on a form provided by the city
13 prosecutor or city attorney and may contain a provision for costs
14 of investigation, discovery, and reasonable attorney’s fees, in an
15 amount not to exceed six hundred dollars (\$600).

16 (F) If the city prosecutor or city attorney accepts the
17 assignment of the right of the owner to bring the unlawful
18 detainer action, the owner shall retain all other rights and duties,
19 including the handling of the tenant’s personal property,
20 following issuance of the writ of possession and its delivery to
21 and execution by the appropriate agency.

22 (2) Upon the failure of the owner to file an action pursuant to
23 this section, or to respond to the city prosecutor or city attorney
24 as provided in paragraph (1), or having filed an action, if the
25 owner fails to prosecute it diligently and in good faith, the city
26 prosecutor or city attorney may file and prosecute the action, and
27 join the owner as a defendant in the action. This action shall have
28 precedence over any similar proceeding thereafter brought by the
29 owner, or to one previously brought by the owner and not
30 prosecuted diligently and in good faith. Service of the summons
31 and complaint upon the defendant owner shall be in accordance
32 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the
33 Code of Civil Procedure.

34 (3) If a jury or court finds the defendant tenant guilty of
35 unlawful detainer in a case filed pursuant to paragraph (2), the
36 city prosecutor or city attorney may be awarded costs, including
37 the costs of investigation and discovery and reasonable attorney’s
38 fees. These costs shall be assessed against the defendant owner,
39 to whom notice was directed pursuant to paragraph (1), and once

1 an abstract of judgment is recorded, it shall constitute a lien on
2 the subject real property.

3 (4) Nothing in this article shall prevent a local governing body
4 from adopting and enforcing laws, consistent with this article,
5 relating to drug abatement. Where local laws duplicate or
6 supplement this article, this article shall be construed as
7 providing alternative remedies and not preempting the field.

8 (5) Nothing in this article shall prevent a tenant from receiving
9 relief against a forfeiture of a lease pursuant to Section 1179 of
10 the Code of Civil Procedure.

11 (b) In any proceeding brought under this section, the court
12 may, upon a showing of good cause, issue a partial eviction
13 ordering the removal of any person, including, but not limited to,
14 members of the tenant's household if the court finds that the
15 person has engaged in the activities described in subdivision (a).
16 Persons removed pursuant to this section may be permanently
17 barred from returning to or reentering any portion of the entire
18 premises. The court may further order as an express condition of
19 the tenancy that the remaining tenants shall not give permission
20 to or invite any person who has been removed pursuant to this
21 subdivision to return to or reenter any portion of the entire
22 premises.

23 (c) For the purposes of this section, "controlled substance
24 purpose" means the manufacture, cultivation, importation into
25 the state, transportation, possession, possession for sale, sale,
26 furnishing, administering, or giving away, or providing a place to
27 use or fortification of a place involving, cocaine, phencyclidine,
28 heroin, methamphetamine, or any other controlled substance, in a
29 violation of subdivision (a) of Section 11350, Section 11351,
30 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or
31 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,
32 11379.6, or 11383, if the offense occurs on the subject real
33 property and is documented by the observations of a peace
34 officer.

35 (d) Notwithstanding subdivision (b) of Section 68097.2 of the
36 Government Code, a public entity may waive all or part of the
37 costs incurred in furnishing the testimony of a peace officer in an
38 unlawful detainer action brought pursuant to this section.

39 (e) The notice and documentation described in paragraph (1)
40 of subdivision (a) shall be given in writing and may be given

1 either by personal delivery or by deposit in the United States mail
2 in a sealed envelope, postage prepaid, addressed to the owner at
3 the address known to the public entity giving the notice, or as
4 shown on the last equalized assessment roll, if not known.
5 Separate notice of not less than 30 calendar days and
6 documentation shall be provided to the tenant in accordance with
7 this subdivision. Service by mail shall be deemed to be
8 completed at the time of deposit in the United States mail. Proof
9 of giving the notice may be made by a declaration signed under
10 penalty of perjury by any employee of the public entity which
11 shows service in conformity with this section.

12 (f) This section shall only apply to the following courts:

13 (1) In the County of Los Angeles, any court having
14 jurisdiction over unlawful detainer cases involving real property
15 situated in the City of Los Angeles ~~or in~~ the City of Long Beach,
16 *the City of Lancaster, or in the City of Palmdale.*

17 (2) In the County of San Diego, any court having jurisdiction
18 over unlawful detainer cases involving real property situated in
19 the City of San Diego.

20 (3) In the County of Alameda, any court with jurisdiction over
21 unlawful detainer cases involving real property situated in the
22 City of Oakland.

23 *(4) In the County of San Bernardino, any court having*
24 *jurisdiction over unlawful detainer cases involving real property*
25 *situated in the City of Victorville.*

26 (g) (1) The city attorney and city prosecutor of each
27 participating jurisdiction shall provide to the Judicial Council the
28 following information:

29 (A) The number of notices provided pursuant to paragraph (1)
30 of subdivision (a).

31 (B) The number of cases filed by an owner, upon notice.

32 (C) The number of assignments executed by owners to the city
33 attorney or city prosecutor.

34 (D) The number of three-day, 30-day, or 60-day notices issued
35 by the city attorney or city prosecutor.

36 (E) The number of cases filed by the city attorney or city
37 prosecutor.

38 (F) The number of times that an owner is joined as a defendant
39 pursuant to this section.

1 (G) As to each case filed by an owner, the city attorney, or the
2 city prosecutor, the following information:

3 (i) The number of judgments ordering an eviction or partial
4 eviction (specify whether default, stipulated, or following trial).

5 (ii) The number of cases, listed by separate categories, in
6 which the case was withdrawn or in which the tenant prevailed.

7 (iii) The number of other dispositions (specify disposition).

8 (iv) The number of defendants represented by counsel.

9 (v) Whether the case was a trial by the court or a trial by a
10 jury.

11 (vi) Whether an appeal was taken, and, if so, the result of the
12 appeal.

13 (vii) The number of cases in which partial eviction was
14 requested, and the number of cases in which the court ordered a
15 partial eviction.

16 (H) As to each case in which a notice was issued, but no case
17 was filed, the following information:

18 (i) The number of instances in which a tenant voluntarily
19 vacated the unit.

20 (ii) The number of instances in which a tenant vacated a unit
21 prior to the providing of the notice.

22 (iii) The number of cases in which the notice provided
23 pursuant to subdivision (a) was erroneously sent to the tenant.
24 (List reasons, if known, for the erroneously sent notice, such as
25 reliance on information on the suspected controlled substance
26 law violator's name or address that was incorrect; clerical error;
27 or any other reason)

28 (iv) The number of other resolutions (specify resolution).

29 (2) (A) Information compiled pursuant to this section shall be
30 reported annually to the Judicial Council on or before January 30
31 of each year.

32 (B) The Judicial Council shall thereafter submit a brief report
33 to the Senate and Assembly Committees on the Judiciary once on
34 or before April 15, 2007, and once on or before April 15, 2009,
35 summarizing the information collected pursuant to this section
36 and evaluating the merits of the pilot programs established by
37 this section.

38 (h) This section shall remain in effect only until January 1,
39 2010, and as of that date is repealed unless a later enacted statute
40 deletes or extends that date.

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation to provide for an expedited process for the collection~~
3 ~~of fees for the administration of enterprise zones in the state.~~

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